

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

LUIS FELIPE MORENO-GODOY,

Plaintiff,

v.

GALLET DREYER & BERKEY, LLP;
ROGER L. STAVIS, ESQ.; STEVEN R.
KARTAGENER, ESQ.,

Defendants.

Case No. 1:14-cv-7082 (PAE)

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION TO VOLUNTARILY DISMISS THE THIRD,
FOURTH AND FIFTH CLAIMS OF THE FIRST AMENDED COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 15 and 41(a), Plaintiff Luis Felipe Moreno Godoy respectfully moves to voluntarily dismiss the Third, Fourth and Fifth Claims for Relief in the First Amended Complaint, dated October 14, 2016 (ECF No. 96). There is good cause for granting this motion, as follows:

1. Mr. Moreno Godoy filed the First Amended Complaint against Gallet Dreyer & Berkey, LLP ("GDB"), Mr. Stavis and Mr. Kartagener on October 14, 2016 (ECF No. 96).
2. Mr. Moreno Godoy's First Claim for Relief alleges Breach of Contract against GDB and Mr. Stavis. First Am. Compl. ¶¶ 33–38.
3. Mr. Moreno Godoy's Second Claim for Relief alleges Breach of Contract against Mr. Kartagener. First Am. Compl. ¶¶ 39–43.
4. Mr. Moreno Godoy's Third Claim for Relief alleges Unjust Enrichment against GDB and Mr. Stavis. First Am. Compl. ¶¶ 44–49.

5. Mr. Moreno Godoy's Fourth Claim for Relief alleges Money Had and Received against GDB and Mr. Stavis. First Am. Compl. ¶¶ 50–53.
6. Mr. Moreno Godoy's Fifth Claim for Relief alleges Constructive Trust against GDB and Mr. Stavis. First Am. Compl. ¶¶ 54–58.
7. The Court granted summary judgment on all claims for GDB and Mr. Kartagener, Op. & Order 24, April 11, 2019, ECF No. 188, and for Mr. Stavis, Op. & Order 17, June 29, 2017, ECF No. 131.
8. On appeal, the Second Circuit vacated these orders, reinstating all claims against GDB, Mr. Kartagener, and Mr. Stavis and holding that Mr. Moreno Godoy may prosecute claims against Mr. Stavis in his personal capacity notwithstanding that he represented Mr. Moreno Godoy as a partner of GDB. *Moreno-Godoy v. Kartagener*, 7 F.4th 78, 90 (2d Cir. 2021).
9. In the interest of streamlining the issues for trial, and consistent with the Second Circuit's order, Mr. Moreno Godoy voluntarily dismisses his Third, Fourth and Fifth Claims for Relief against GDB and Mr. Stavis.
10. This motion does not affect Mr. Moreno Godoy's ability to maintain, pursue and proceed to trial on his First Claim for Relief against GDB and Mr. Stavis, or his Second Claim for Relief against Mr. Kartagener.
11. Counsel for Mr. Moreno Godoy shared this memorandum of law and the accompanying proposed order with Counsel for Defendants, and Defendants do not oppose this motion or the relief outlined in the proposed order submitted herewith.

12. Based upon the foregoing, Mr. Moreno Godoy respectfully requests that the Court dismiss the Third, Fourth and Fifth claims in the First Amended Complaint and order that each Party shall bear their own fees in connection with the dismissed claims.

Dated: February 3, 2022
New York, New York

Respectfully submitted,

AXINN, VELTROP & HARKRIDER LLP

/s/ John M. Tanski

John M. Tanski
Francis H. Morrison
90 State House Square, 9th Floor
Hartford, Connecticut 06103
(860) 275-8100
jtanski@axinn.com
fmorrison@axinn.com

Craig M. Reiser
Kail J. Jethmalani
Eva H. Yung
114 W 47th Street, 24th Floor
New York, New York 10036
Office (212) 728-2200
creiser@axinn.com
kjethmalani@axinn.com
eyung@axinn.com

Attorneys for Luis Felipe Moreno Godoy